

Department of Permits and Development Management  
111 West Chesapeake Avenue  
Towson, Maryland 21204  
Baltimore County, Maryland

In the Matter of

Civil Citation No. 57559

Robert Leon Temple  
Linda P. Temple

1307 Goodwood Avenue

Respondents

FINDINGS OF FACT AND CONCLUSIONS OF LAW  
FINAL ORDER OF THE CODE ENFORCEMENT HEARING OFFICER

This matter came before the Code Enforcement Hearing Officer for the Department of Permits and Development Management on October 7, 2009 for a Hearing on a citation for violations under the Baltimore County Zoning Regulations (BCZR) section 101, 102.1 Zoning Commissioner's Policy Manual (ZCPM), failure to cease illegal service garage activity on residential property zoned DR 10.5 known as 1307 Goodwood Avenue, 21221.

On September 15, 2009, pursuant to Baltimore County Code §3-6-205, Inspector M. Stuart Kelly issued a Code Enforcement & Inspections Citation. The citation was sent to the Respondent by 1<sup>st</sup> class mail to the last known address listed in the Maryland State Tax Assessment files.

The citation proposed a civil penalty of \$6,000.00 (six thousand dollars).

The following persons appeared for the Hearing and testified: Robert Leon Temple, Respondent, Mr. Willie Russell and Mr. Lynch, Complainants and, M. Stuart Kelly, Baltimore County Code Enforcement Officer.

After proper consideration of all the evidence and testimony presented, the Hearing Officer finds:

A. A Correction Notice was issued on August 18, 2008 for removal of untagged/inoperative motor vehicles, to cease service garage activities, and for removal of open dump/junk yard. Citations were issued on March 30, 2009 and April 27, 2009 but not enforced. Another Citation for the same violations was issued on May 30, 2009, with a Final Order dated June 22, 2009 enforcing the Citation with a civil penalty of \$6,000.00 that could be reduced to \$500.00 if the violations were corrected by July 20, 2009. The penalty was reduced to \$500.00 after re-inspection found the property in compliance with code requirements. This Citation was issued on September 15, 2009.

B. Inspector M. Stuart Kelly testified that after receiving a new complaint, he re-inspected the property on September 13, 2009. He observed a vehicle in the garage with the hood up. He also observed automobile repair equipment and auto parts including a torch for cutting parts, a new transmission, and a motor. Photographs in the file show these items outside on the ground and also show wheel rims, a tire, piled lumber, and other junk and debris.

C. Complainant Russell testified that Respondent has continued to operate a service garage at this residence. A parts truck comes regularly to deliver parts. Tow trucks bring in cars. People drive up to pick up and drop off drivers. Mr. Russell and Mr. Lynch requested that the County enforce rules prohibiting service garage activities in residential areas.

D. At the prior Hearing on June 10, 2009, Respondent Robert Temple testified that he lost his lease on a ten bay automotive shop and had to move his tools and equipment; that he has been bringing vehicles to the property for repair; and that he had recently rented a storage lot for the vehicles. At this Hearing, Mr. Temple testified that he has the storage lot but it is not equipped for service garage work. He did not deny doing repairs at his residence.

E. As noted above, Respondents have received multiple notices and citations for open dump/junk yard and commercial service garage violations during the past two years. In June 2007, the Hearing Officer enforced a Citation for the same violations, and imposed a \$1,000.00 civil penalty that was suspended provided the violations did not recur. The Hearing Officer's Final Order stated in part,

"Mr. Creed reported that all items constituting junkyard conditions have been removed; all untagged vehicles have been licensed or removed. ... Mr. Temple was advised that no exterior evidence of a business from a residence shall exist on subject property, namely storage of vehicles for repair, storage of unlicensed, inoperable vehicles, storage of auto parts, tires, batteries, etc."

F. County zoning regulations prohibit the outside storage of inoperative motor vehicles on a residential lot. BCZR Section 428.1(A). An inoperative motor vehicle is defined as "Any motor vehicle that cannot be operated in its existing condition because the parts necessary for operation, including but not limited to tires, windshield, engine, drive train, driver's seat, steering wheel or column, or gas or brake pedals, are removed, destroyed, damaged or deteriorated. BCZR Section 101.1. The outside storage of unlicensed motor vehicles is also prohibited, except for one vehicle per dwelling unit for a period not exceeding 15 days in any calendar year. Section 428.1(B). Automotive service garages are not permitted in residential zones; a residential garage can only be used for the storage of private motor vehicles and cannot be used to repair or equip vehicles. BCZR Section 101.1, Section 1B01.1.

G. The evidence presented clearly shows that even though they have actual notice and knowledge that their activities are prohibited, Respondents have continued to operate a service garage business from this residential property, and have improperly stored multiple inoperative vehicles, equipment, and used auto parts outside on the property. This violates zoning regulations and harms other residents of the community, who are entitled to enjoy their residential properties without the intrusion of these commercial activities. Respondent has failed to keep the commitment he made at the prior Hearing to cease this violation. An additional civil penalty will be enforced for these violations, and the County will be authorized to enter the property to remove impermissible junk, debris, auto parts, automotive repair equipment, and inoperative vehicles, at Respondents' expense.

H. Because Respondents have a clear history of resuming improper service garage activities after code enforcement action is completed, the County will also be directed to re-inspect this property on a regular basis for the next nine months. If re-inspection finds continued or repeated violations, Respondents will be subject to immediate Citation.

IT IS ORDERED by the Code Enforcement Hearing Officer that a civil penalty be imposed in the amount of \$2,000.00 (two thousand dollars).

IT IS FURTHER ORDERED that after October 26, 2009, Baltimore County may enter the property for the purpose of removing any junk, trash, debris, inoperative motor vehicles, or service garage equipment or automobile parts being improperly stored outside on this residential property, at Respondents' expense.

IT IS FURTHER ORDERED that if not paid within thirty days of billing, the civil penalty AND any expenses incurred by Baltimore County, as authorized above, shall be imposed and placed as a lien upon the property.

IT IS FURTHER ORDERED that the County inspect the property at least twice per month until August 2010 to determine whether the violations have been corrected.

ORDERED this 13<sup>th</sup> day of October 2009.

Signed: ORIGINAL SIGNED  
Margaret Z. Ferguson  
Baltimore County Hearing Officer

**NOTICE TO RESPONDENT:** The Respondent is advised that (1) pursuant to §3-6-206(g)(2) of the Baltimore County Code, the Respondent may make written application to the Director of the Department of Permits & Development Management within 10 days to modify or amend this order and (2) pursuant to §3-6-301(a), Baltimore County Code, the Respondent may appeal this order to the Baltimore County Board of Appeals within fifteen (15) days from the date of this order; any such appeal requires the filing of a petition setting forth the grounds for appeal, payment of a filing fee of \$150 and the posting of security to satisfy the penalty assessed.